THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.5730 of 1996

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DATED: 21-02-2006

Between:

D.Surya Prakasa Rao . . .Petitioner

And

The MRO, Anakapalle, Visakhapatnam District,

and others . . .Respondents

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O R D E R:

The petitioner challenges a communication, dated 02-03-1995, between respondents 2 and 3.

The wife of the petitioner was assigned an extent of one acre of land in Survey No.398/87 of Sanivada Village, Anakapalle Taluq, Visakhapatnam District, on

03-02-1978. She is said to have died on
21-12-1991. The first respondent issued a show cause notice, dated
04-08-1994, to the petitioner alleging that the land assigned to the wife of the petitioner was not brought under cultivation ever since the date of assignment. It was also alleged that a permanent structure was raised therein and the building as well as the land were rented out for
non-agricultural purpose. Apart from submitting an explanation, the petitioner made series of representations. He pleaded that the land was developed by digging wells and planting coconut trees etc. He made a reference to the payment of compensation on account of the damage due to floods and several other factors. At one stage, he made a representation for assignment of the land in his favour. In the context of the request made by the petitioner for grant of patta, the second respondent addressed the impugned letter to the third respondent stating that the land is not fit for cultivation and that it is not desirable to assign the same in favour of the petitioner.

Though ten years have elapsed, the respondents have not chosen to file counter-affidavit.

Heard the learned counsel for the petitioner and learned Government Pleader for Assignment.

In a way, it can be said that it is the over anxiety of the petitioner that has resulted in issuance of the impugned letter. On receiving a show cause notice as to why the assignment in respect of the land referred to above shall not be cancelled, the petitioner submitted an explanation. He ought to have waited till an order is passed by the first respondent. However, he made a representation to the third respondent for grant of patta in his favour. It does not appear to have realized that the assignment in favour of the petitioner made it very clear that it is heritable. Being the legal representative and legal heir of his wife, the petitioner had succeeded to the interests of his wife.

While processing the application of the petitioner for grant of patta, the second respondent opined that the land is not fit for cultivation. Therefore, it cannot be assigned. For all practical purposes, the entire exercise of submission of an application by the petitioner for grant of patta as well as the impugned communication, are superfluous. As of now, the assignment that was made in

favour of the wife of the petitioner is intact. The first respondent did not pass any order pursuant to the show cause notice and explanation submitted in reply thereto. In case any order adverse to the interest of the petitioner is passed, it shall always be open to the petitioner to pursue the suitable remedy.

Hence, the writ petition is closed with the above observation. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

21st FEBRUARY, 2006.

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